

29.01.2024.
09.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 124 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No.73 of 2021 dated 01.09.2021 under Sections 20(b)(ii)(C)28/29 of the NDPS Act.

In the matter of : **Tarique Anwar.**

.... Petitioner.

Mr. Tapodip Gupta,
Sk. Toslim Ali,
Mr. Suman Bhanja.

...for the Petitioner.

Mr. Arun Kr. Maiti,
Mr. Somnath Adhikary.

...for the NCB.

1. Petitioner is in custody for two years and four months. He submits there is slow progress in trial. Accordingly, he prays for bail.

2. Learned Advocate for the NCB opposes the bail prayer. He submits two witnesses have been examined.

3. We have considered the materials on record. 42 kgs. of ganja in all was recovered from the petitioner. His bail prayer was rejected on merits in January, 2023. Presently, he has prayed for bail on the ground of delay. Since his rejection of bail in January, 2023, we note that schedule was fixed for examination of witnesses on 25/26th September, 2023. Thereafter, schedule was fixed in January, 2024. The first schedule was adjourned due to absence of judicial personnel in the court. During the second schedule, no witnesses were present. The third schedule is fixed in January, 2024 when two witnesses have been examined. Prosecution proposes to

examine seven witnesses in all. Pace at which the prosecution has proceeded with the trial does not inspire confidence and it appears there is little possibility of trial concluding in the near future. Petitioner is not responsible for the delay.

4. Under such circumstances, we are of the petitioner has been able to make out a case for bail on the ground of delay in trial. Bail prayer on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act as held in ***Rabi Prakash Vs. State of Odisha***¹.

5. Hence, we are inclined to grant bail to the petitioner.

6. Accordingly, the petitioner viz., **Tarique Anwar** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the N.D.P.S. Act, Howrah subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future and on further condition that the petitioner, while on bail, shall remain within the district of Hooghly except for attending court proceeding and shall report to the Officer-in-charge, Rishra Police Station once in a week until further orders.

7. In the event petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at

¹ (2023) SCC Online SC 1109

liberty to cancel his bail in accordance with law without further reference to this Court.

8. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)